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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,519	10/17/2001	Antonio Abbondanzio	RPS920010145US1	7673
45211	7590	11/15/2006	EXAMINER	
KELLY K. KORDZIK WINSTEAD SECHREST & MINICK PC PO BOX 50784 DALLAS, TX 75201			TANG, KENNETH	
			ART UNIT	PAPER NUMBER
			2195	

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/981,519	Applicant(s) ABBONDANZIO ET AL.	
	Examiner Kenneth Tang	Art Unit 2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This final action is in response to the Appeal Brief filed on 8/18/06. Prosecution has been reopened and the Applicant's arguments are moot in view of the new grounds of rejections.
2. Claims 1-22 are presented for examination.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. The claimed invention is directed to non-statutory subject matter. The invention as claimed in claims 1, 8, and 15, does not provide a tangible result. The invention of claims 1, 8, and 15 relate to requesting access from a server blade to a shared device and if it is not being accessed, then receiving a response that it is not available and wait. The result of the invention of claims 1, 8, and 15 relates to the unavailable response and then merely waiting. This does not constitute as a tangible result. See MPEP 2106. An example of a tangible result would be the "transferring" feature that is found in the dependent claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant's Specification defines a server blade to not include a storage unit but rather accesses shared devices. In claim 15, it is claimed that the server blade includes a memory unit that is coupled to the processor. The server blade of the claims contradicts the server blade described in the Specification. Therefore, claim 15 is indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-6, 8-13, and 15-22 are rejected under 35 U.S.C. 102(b) as being anticipated by George et al. (hereinafter George) (US 4,965,718).

6. As to claim 1, George teaches a method for automatically switching remote shared devices in a dense server environment comprising the steps of:

receiving a request to access a shared device (memory element 14-1) from a server blade (processing element 12-1) (col. 5, lines 1-32, Abstract); and

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issuing a query as to whether said shared device is being accessed (col. 5, lines 1-32, Abstract);

wherein if said shared device is not being accessed by said server blade then the method further comprises the steps of:

receiving a response to said query indicating that said shared device is not available (compare/no compare signal returned to the requesting processing element 12) (col. 12, lines 12-21, Fig. 6C, item 610, Abstract); and

waiting to receive a response that said shared device is available (repeating the reading, comparing and notifying steps until there is a match in the comparison value) (col. 5, lines 1-32, Abstract, Fig. 6C, item 610).

7. Applicant defines a server blade as being a typical server that does not include a storage unit but rather accesses shared devices (page 1, lines 22-28 through page 2, lines 1-6, etc.). George's processing elements perform the same functionality as Applicant's claimed server blades.

8. As to claim 2, George teaches determining if said shared device is being accessed (compare/no compare signal returned to the requesting processing element 12) (col. 12, lines 12-21, Fig. 6C, item 610, Abstract).

9. As to claim 3, George teaches wherein if said shared device is not being accessed then the method further comprises the steps of: connecting said shared device with said server blade;

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and transferring said request to access said shared device to said shared device (repeating the reading, comparing and notifying steps until there is a match in the comparison value and then transmitting after receiving an ACCEPTED signal) (col. 5, lines 1-32, Abstract, Fig. 6C, item 610, col. 8, lines 22-43).

10. As to claim 4, George teaches wherein if said shared device is being accessed then the method further comprises the step of: determining if said shared device is being accessed (by receiving ACCEPTED signal) by said server blade (col. 5, lines 1-32, Abstract, Fig. 6C, item 610, col. 8, lines 22-43).

11. As to claim 5, George teaches wherein if said shared device is being accessed by said server blade then the method further comprises the steps of: connecting said shared device with said server blade (col. 5, lines 1-32, Abstract, Fig. 6C, item 610, col. 8, lines 22-43).

12. As to claim 6, George teaches: receiving said response that said shared device is available; connecting said shared device with said server blade; and transferring said request to access said shared device to said shared device (col. 5, lines 1-32, Abstract, Fig. 6C, item 610, col. 8, lines 22-43).

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13. As to claims 8-13, they are rejected for the same reasons as stated in the rejections of claims 1-6.

14. As to claim 15, George teaches a system, comprising:

one or more shared devices (memory elements 14-1, 14-2,...14-N) (col. 5, lines 1-32, Abstract); and

a plurality of server blades (processing element 12-1) (col. 5, lines 1-32, Abstract) coupled to said one or more shared devices (memory elements 14-1, 14-2,...14-N) via a service unit, wherein said service unit is configured to establish a connection between one of said one or more shared devices and one of said plurality of server blades requesting to access said one of said one or more shared devices (col. 5, lines 1-32, col. 6, lines 51-68 through col. 7, lines 115, Abstract);

wherein said requesting server blade comprises:

a processor (processing element 12-1, Fig. 1, col. 3, lines 15-17); and

a memory unit coupled to said processor, wherein said memory unit is operable for storing a program, wherein the program is operable for performing the following programming steps (col. 3, lines 15-17):

receiving a request to access said requested shared device from said requesting server blade (col. 5, lines 1-32, Abstract); and

issuing a query to said service unit as to whether said requested shared device is being accessed (col. 5, lines 1-32, Abstract);

wherein if said requested shared device is not being accessed by said requesting server blade then the program is further operable for performing the following programming steps:

receiving a response to said query indicating that said requested shared device is not available (compare/no compare signal returned to the requesting processing element 12) (col. 12, lines 12-21, Fig. 6C, item 610, Abstract); and

waiting to receive a response that said requested shared device is available (repeating the reading, comparing and notifying steps until there is a match in the comparison value) (col. 5, lines 1-32, Abstract, Fig. 6C, item 610).

15. As to claim 16, George teaches wherein said service unit comprises:

a processor (col. 5, lines 1-32, col. 6, lines 51-68 through col. 7, lines 115, Abstract); and

a memory unit coupled to said processor, wherein said memory unit is operable for storing a computer program, wherein the computer program is operable for performing the following programming step (col. 5, lines 1-32, col. 6, lines 51-68 through col. 7, lines 115, Abstract):

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determining if said requested shared device is being accessed (col. 8, lines 1-45).

16. As to claim 17, George teaches wherein if said requested shared device is not being accessed then the computer program of said service unit is further operable for performing the following programming step:

connecting said requested shared device with said requesting server blade (col. 5, lines 1-32, Abstract, Fig. 6C, item 610, col. 8, lines 22-43);

wherein if said requested shared device is not being accessed then the program of said requesting server blade is further operable for performing the following programming step (repeating the reading, comparing and notifying steps until there is a match in the comparison value and then transmitting after receiving an ACCEPTED signal) (col. 5, lines 1-32, col. 12, lines 12-21, Abstract, Fig. 6C, item 610, col. 8, lines 22-43)

transferring said request to access said requested shared device to said requested shared device (repeating the reading, comparing and notifying steps until there is a match in the comparison value and then transmitting after receiving an ACCEPTED signal) (col. 5, lines 1-32, Abstract, Fig. 6C, item 610, col. 8, lines 22-43).

17. As to claims 18-19 they are rejected for the same reasons as stated in the rejections of claims 4-5.

18. As to claim 20, George teaches wherein the program of said requesting server blade is further operable for performing the following programming step:

receiving said response that said requested shared devices is available (repeating the reading, comparing and notifying steps until there is a match in the comparison value and then transmitting after receiving an ACCEPTED signal) (col. 5, lines 1-32, Abstract, Fig. 6C, item 610, col. 8, lines 22-43).

19. As to claim 21, George teaches wherein the computer program of said service unit is further operable for performing the following programming step:

connecting said requested shared device with said requesting server blade (col. 5, lines 1-32, Abstract, Fig. 6C, item 610, col. 8, lines 22-43);

wherein the program of said requesting server blade is further operable for performing the following programming step: transferring said request to access said requested shared device to said requested shard device (repeating the reading, comparing and notifying steps until there is a match in the comparison value and then transmitting after receiving an ACCEPTED signal) (col. 5, lines 1-32, col. 6, lines 60-65, Abstract, Fig. 6C, item 610, col. 8, lines 22-43).

20. As to claim 22 it is rejected for the same reasons as stated in the rejections of claim 7.

21. **Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable by George et al. (hereinafter George) (US 4,965,718) in view of Applicant's Admitted Prior Art in the Specification (hereinafter AAP).**

22. As to claims 7 and 14, George is silent in teaching the shared device/memory can be a Universal Serial Bus (USB) device. AAP teaches it is well known in the art already that a shared device can be accessed by USB. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of George's memory device to be compatible with USB because this would provide an additional way to access the shared device.

Response to Arguments

23. Applicant's arguments have been fully considered but they are now moot in view of the new grounds of rejections.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

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- US 4,161,779 teaches a plurality of terminals/stations/servers that connects with a shared device, wherein there is a request to access the shared device when it becomes available.
- US 5,630,166 teaches a plurality of processors accessing a shared memory when accessible.
- US 6,430,640 teaches a plurality of processes vying for access to a shared resource when granted.
- US 6,950,895 teaches a plurality of server blades accessing shared USB devices such as disc drives when they become available.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Tang whose telephone number is (571) 272-3772. The examiner can normally be reached on 8:30AM - 6:00PM, Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MENG-AI TANG
ASSISTANT PATENT EXAMINER
TECHNOLOGY CENTER